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Rokita builds rep as tough enforcer

Stifel case latest example of state official's beefed-up approach in securities arena

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Secretary of State Todd Rokita this week will argue his high-profile case against St. Louis-based Stifel Nicolaus and Co., a financial advisory firm whose clients include some of Indiana's wealthiest people.

For Rokita, 39, it'll be just another day on the job. Since his election in 2002, the Republican has aggressively broadened his office's efforts to root out and punish securities violations, large and small.

He's relied on fines and fees to greatly increase his office's financial resources and manpower without a tax hike. Rokita also has successfully lobbied for changes to Indiana law, stiffening prison sentences for financial fraud. And he's spent millions on the Indiana Investment Watch media campaign, which aims to warn everyday investors about schemes and scams.

The efforts have helped boost the statewide profile of Rokita, whose second term ends next year. Rokita, a former deputy under Secretary of State Sue Ann Gilroy, isn't eligible to run again and hasn't said whether he will seek another office.

He oversaw enforcement during a tumultuous time for the securities industry, one in which federal investigators drew sharp criticism for failing to ferret out high-profile frauds, such as the Ponzi scheme perpetrated by Bernard Madoff.

"I'm not here to poke the SEC in the eye or anything like that, but there's this

whole debate ... going on Capitol Hill on who should regulate the [securities] industry, and should it be some kind of czar in D.C. or should it just be the SEC?" Rokita said.

"Our point is, with all these cases, we've shown we certainly are good cops on the beat at the very least, and in some cases affect national settlement much quicker and more aggressively than the SEC has."

The administrative complaint against Stifel, scheduled for a hearing Nov. 18, alleges the firm and its financial advisers failed to disclose the risks of auction-rate securities to 142 Hoosiers who invested \$55 million.

The \$200 billion auction-rate bond market collapsed internationally in the early stages of last year's credit crisis, spawning investigations by regulators across the country.

Relying on fines

Rokita boasts that, under his watch, the Secretary of State's Office has stepped up enforcement without more taxpayer dollars. The office, which also oversees elections and business registrations in Indiana, now has a \$4.9 million budget, with more than half coming from fees and fines.

He notes that, adjusted for inflation, his office receives less tax revenue than it did in 1987. He's used the extra resources to add manpower and pay for Indiana Investment Watch's TV spots, billboards and Web site.

The Secretary of State's Office now has 72 employees. Of those, 27 work in the Securities Division, which, since

Secretary of state, by the numbers

\$4.9 million: annual budget (half from taxes, half from fees)

72: employees

\$1.7 million: Securities Division budget

27: Securities Division employees

390: Securities Division complaints in 2009, down from 459 year before

148: complaints in 2009 resulting in investigations, up from 138 previous year

\$3.6 million: amount spent in last three years on Indiana Investment Watch, an anti-fraud ad campaign

Source: Indiana Secretary of State's Office



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*Todd Rokita,
Indiana secretary of state*

2004, has boasted a special Prosecution Assistance Unit staffed by former cops, forensic experts and Wall Street traders.

Local county prosecutors are responsible for pressing criminal cases. But because they're swamped with violent crime, white-collar matters sometimes languish on the back burner. That's where the PAU steps in.

Every case originates with a consumer complaint. About one-third merit full-blown investigations. The results: Since 2004, Rokita's Securities Division has ordered \$51 million in restitution in the civil and criminal cases it's helped local prosecutors win.

His office was on the trail of Marcus Schrenker before the Fishers financial manager faked his own death in a plane crash in January. Its investigation, in fact, might have helped spur his flight. On Dec. 31, it had raided his home, searching for evidence of securities violations.

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In March, Rokita secured a temporary asset freeze against Dorothy Giesler-Tragardh, who formerly had been a partner in a clean-coal energy company called Praxis Resource Partners LLC. Her business partners alerted Rokita's office when they suspected she was pocketing investor funds and using them for personal expenses, including purchase of a home on Geist Reservoir.

Other cases involve relatively small sums. But Rokita says it's the evidence, not size, that drives his case selection.

"Just because someone lost money in the market, or is complaining about their agent, doesn't mean we go after [the case]," Rokita said. "We look to see if there's anything that merits investigation from a criminal perspective or civil perspective."

Indianapolis securities attorney Mark Maddox, who served as Indiana's securities commissioner in the early 1990s, remembers having only a \$700,000 budget—less than half the division's current total. He's impressed with what Rokita's done to beef

up efforts to curb white-collar crime.

"Regulators can never get their arms around the entire problem," Maddox said. "But when you do become aware of things, you want to move quickly. And the more resources you have, the better position you're in to do that."

Maddox does question Rokita's decision to build a case against Stifel—noting that the problems with auction-rate securities stem from a global meltdown, and that the firm already has promised to repay investors.

"Given you're a state securities regulator, and there's always 200 things you could be doing, I probably would have passed on that [Stifel case] and devoted the resources to another problem," Maddox said.

Tougher legislation

Brad Scolnik, who was the state's securities commissioner from 1994 to 2002 and now is an attorney with Stewart and Irwin PC, praised Rokita for persuading the Legislature this year to hike securities fraud violations from Class C to Class B felonies if they involve senior citizens

older than 60. The change also applies to affinity fraud, which preys on members of particular religious or ethnic groups.

"For many con artists, the threat of an administrative action or civil fine isn't an effective deterrent," Scolnik said. "The most effective threat is a long-term jail sentence. I've been heartened by the fact the Securities Division is concentrating heavily on criminal prosecution."

It's unclear whether Rokita's efforts will pay off at the ballot box. *Indiana Legislative Insight* Publisher Ed Feigenbaum pointed out that the only secretary of state in recent memory to leverage the office was Evan Bayh, who became governor and then senator. If Rokita pursues a gubernatorial campaign in 2012, as many expect, he'll likely have to fight for the Republican nomination against at least half a dozen major candidates.

"If you ask the average person on the street, 'Have you heard of Todd Rokita?' ... he'll have more name ID than some other folks starting from scratch," Feigenbaum said. "But not as much as [Lt. Gov.] Becky Skillman or [U.S. Rep.] Mike Pence."•